

ADMINISTRATIVE PANEL DECISION

CitiusTech Healthcare Technology Private Limited v. citius Tech,
citiustechology.com
Case No. D2024-4342

1. The Parties

The Complainant is CitiusTech Healthcare Technology Private Limited, India, represented by Vutts & Associates LLP, India.

The Respondent is citius Tech, citiustechology.com, India.

2. The Domain Name and Registrar

The disputed domain name <citiustechology.com> is registered with Squarespace Domains II LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 22, 2024. On October 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 22, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which partly differed from the named Respondent (Not Available, citiustechology.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 25, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 29, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2024. The Respondent sent an email communication to the Center on November 5, 2024. The Complainant requested suspension of the

proceedings on November 7, 2024, and the proceedings were suspended until December 7, 2024. The proceedings were reinstituted on December 10, 2024 upon the Complainant's request. The Respondent did not submit any formal Response.

The Center appointed Vinod K. Agarwal as the sole panelist in this matter on January 9, 2025. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company organized and existing under the laws of India having its registered office at Mumbai, India. The Complainant was established in the year 2005 with the name Citius IT Solutions Private Limited. At the time of incorporation, the Complainant had adopted the mark CITIUSTECH. This mark is also used as a part of the name of the Complainant's subsidiary company in the United States of America ("USA"), namely, CitiusTech, Inc., which was established on July 11, 2005. The Complainant then changed its own name to CitiusTech Healthcare Technology Private Limited on October 10, 2015. The Complainant operates in India, Singapore, United Arab Emirates, United Kingdom, and USA.

The Complainant is a provider of consulting and digital technology to healthcare and life sciences companies. The Complainant builds applications, deploys enterprise-level software and claims to be a pioneer in healthcare analytics in the international market. In the Complaint, the Complainant has stated that they have received a large number of awards (about 16) and recognition for their contribution in the Healthcare Industry in the years 2011 to 2022. The same are listed in Annex 9 to the Complaint.

The Complainant owns a large portfolio of trademark registrations for CITIUSTECH, including Indian Registrations No. 2700671 in Class 9 dated March 18, 2014, and No. 3382199 in Class 42 dated October 5, 2016.

The disputed domain name was registered on September 25, 2024. It resolves to a page displaying "citiustechology.com" and a message "We're under construction. Please check back for an update soon".

5. Parties' Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied.

In relation to element (i), the Complainant contends that CITIUSTECH is the registered trademark of the Complainant and that the Complainant has been continuously using the trademark CITIUSTECH since 2005. The said trademark of the Complainant is registered in various jurisdictions for a very long time. Copies of the registration certificates of the said trademarks are attached with the Complaint as Annex 10. The trademark of the Complainant is registered in Classes 9 and 42.

The complainant is also the owner of the domain name <citiustech.com>. The said domain provides information about the Complainant and details of their widespread presence.

The Complainant contends that by virtue of prior adoption, long and continuous use and extensive publicity and promotion, the trademark CITIUSTECH has acquired tremendous goodwill and reputation worldwide amongst the consumers and public in general. Thus, they are associated by the public exclusively with the Complainant and their businesses, services and products.

The disputed domain name <citiusotechnology.com> wholly comprises the Complainant's well-known trademark CITIUSTECH and is therefore identical to the Complainant's trademark. The adoption of a well-known trademark with any term, whether descriptive or not, would lead the consumers to believe that the disputed domain name belongs to or is associated with the Complainant owing to the widespread use, goodwill and reputation of the trademark.

The disputed domain is deceptively similar to the Complainant's prior, invented and well-known mark CITIUSTECH and has incorporated the mark in its entirety. The Complainant contends that the mark has achieved global recognition prior to the registration of the disputed domain and is immediately associated with the Complainant's commercial activities and businesses in India as well as the USA. The disputed domain effectively incorporates the mark in its entirety.

The Respondent has merely expanded "tech" into "technology". "Citiustech" and "citiusotechnology" appear deceptively similar and to a layman the expansion of "tech" into "technology" is immaterial. In any case, the word "tech" as appearing in the Complainant's mark CITIUSTECH is a short form of the word "technology". Therefore, "citiustech" and "citiusotechnology" create a similar mental impact on an ordinary and unwary person. Thus, the difference as projected in the disputed domain is without legal significance.

Therefore, the Complainant contends that the aforesaid facts establish that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights and it has satisfied paragraph 4(a)(i) of the Policy.

In relation to element (ii), the Complainant contends that the Respondent does not have any prior or legitimate right in the disputed domain name. The Respondent has not been licensed or authorized either to use the Complainant's mark or to apply for the registration of a domain name containing it. It is matter of public record that the Respondent registered the disputed domain name on September 25, 2024, whereas the Complainant has been running their websites and business under the mark for almost twenty years. It is submitted that the Respondent is in no way related to the Complainant nor is commonly known or doing business under the disputed domain name. The Respondent's disputed domain name does not host a functional webpage. However, the page shows that the website is under construction. The search results for the Respondent's webpage are attached as Annex 19. It is submitted that the Respondent is not making a bona fide offering of goods or services, and this does not appear to be a fair use of the disputed domain name.

The illegality of the registration of the disputed domain name, according to the Complainant, arises from the fact that domain names today are a part and parcel of corporate identity. A domain name acts as the address of the company on the Internet and can be termed the web address or a web mark just like a trademark or service mark. The Respondent's sole purpose for registration of the disputed domain is to illegitimately profit from its association with the Complainant. The disputed domain name was registered only because of its recognition as the Complainant's trademark.

Therefore, the Respondent cannot be said to have any rights or legitimate interests in the disputed domain in the manner contemplated by paragraphs 4(c)(i), 4(c)(ii) and 4(c)(iii) of the Policy because a) the disputed domain name has been registered since September 2024 however no use of the disputed domain name can be ascertained; b) the Respondent is neither known by the disputed domain nor has it been licensed or authorized by the Complainant; and c) there has been no apparent effort to make noncommercial and/or fair use since the conduct of the Respondent negates the possibility that the disputed domain is used for noncommercial or fair purposes.

Therefore, according to the Complainant, they have established that the Respondent has no rights or legitimate interests in the disputed domain name.

In relation to element (iii), the Complainant has stated that the Respondent uses the disputed domain name to create a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

Therefore, the Respondent is using the disputed domain name in bad faith. It is submitted that the disputed domain name is not in use for any noncommercial or fair purpose. The Respondent is not running any website under the disputed domain name. This shows the mala fide intent of the Respondent is to merely earn profits from the disputed domain name by having association with the Complainant's trademarks, with no purpose or intention of using the same.

The disputed domain name was registered by the Respondent with either actual or constructive knowledge of the Complainant's trademarks, which is sufficient to establish opportunistic bad faith registration under the Policy. It is submitted that the Complainant's mark is distinctive and well known, and a preliminary trademark search by the Respondent would have revealed the Complainant's trademarks and the Complainant's website "www.citiustech.com" would have been found easily. It is apparent that the Respondent has acquired the disputed domain name with full knowledge of the existence of the Complainant and its rights in the mark CITIUSTECH. Therefore, the Respondent's registration and use of the disputed domain name qualifies as bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

In support of its contentions, the Complainant has relied on a number of cases filed before the Center involving the trademark CITIUSTECH and which have been decided in its favour.

B. Respondent

The Respondent did not substantively reply to the Complainant's contentions, but in his email communication dated November 5, 2024, stated that the disputed domain name was created by mistake, he did not know "that there is already a company with this name" and expressed his intention to "close this domain".

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

As has been mentioned above according to paragraph 4(a) of the Policy, the Complainant must prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has right. In other words, the Complainant must prove that the Complainant is the owner of the trademark and that the disputed domain name is identical or confusingly similar to that trademark.

The Complainant has provided sufficient evidence of its ownership of registrations of the trademark CITIUSTECH. There is no ambiguity or doubt regarding the Complainant's ownership in the said trademark.

The Panel notes that the trademark CITIUSTECH is incorporated in the disputed domain name in its entirety and as such remains recognizable. The addition of the letters "nology" (to form the word "technology") does not prevent a finding of confusing similarity.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

According to paragraph 4(c) of the Policy, the Respondent may demonstrate its rights or legitimate interests in the disputed domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent has not filed any formal Response in this case. The Panel notes that the registrant identified in the registration details of the disputed domain name is "citius Tech", however, there is no evidence before the Panel to suggest that the Respondent is actually commonly known by the disputed domain name or "citius Tech" anywhere in the world. Rather, it appears most likely that such details were specifically chosen to falsely suggest an affiliation with the Complainant. The Complainant has not authorized the Respondent to use the disputed domain name and its trademark CITIUSTECH. Further, the Respondent has not rebutted the Complainant's prima facie case and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Based on the evidence provided in the Complaint, the Panel finds that the Respondent has not shown any of the above circumstances provided for in paragraph 4(c) of the Policy in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances in particular but without limitation, shall be considered evidence of the registration or use of the disputed domain name in bad faith:

- (i) Circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) The Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion

with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The Complainant contends that the primary aim of the Respondent is to mislead customers of the Complainant. The Respondent's action is with an intention to extract some commercial advantage from the Complainant's goodwill in the market.

Further, the Complainant's trademark CITIUSTECH has immense goodwill and reputation and was well known in India prior to the registration of the disputed domain name. Hence, the Panel finds, on balance of probabilities, that the Respondent was likely aware of the Complainant's trademark at the time of registering the disputed domain name. The Respondent's knowledge of the Complainant's trademark is sufficient to establish registration in bad faith. The disputed domain name is being used for a page merely displaying "citiustechology.com" and a message "We're under construction. Please check back for an update soon". The Panel notes that the Respondent has provided no explanation for its choice or intended use of the disputed domain name which is confusingly similar to the Complainant's trademark. The Panel also notes that non-use of the domain name does not prevent a finding of bad faith under the Policy. Here, the circumstances of this case, including the reputation of the Complainant's mark, the failure of the Respondent to provide any evidence of actual or contemplated good faith use and the Respondent's use of the company name of the Complainant's subsidiary in the registration details of the disputed domain name support a finding of bad faith.

Therefore, the Panel concludes that the registration and use of the disputed domain name amounts to the registration and use of the domain name in bad faith. Paragraph 4(a)(iii) of the Policy is satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <citiustechology.com> be transferred to the Complainant.

/Vinod K. Agarwal/

Vinod K. Agarwal

Sole Panelist

Date: January 23, 2025